



CITY OF DANBURY

155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING COMMISSION
(203) 797-4525
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MINUTES AUGUST 8, 2006

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The meeting was called to order by Chairman Jack Knapp Jr. at 7:30 PM.

Present were Theresa Buzaid, Anthony DiCaprio, Ted Farah, Theodore Haddad Jr., Helen Hoffstaetter, Richard P. Jowdy, Donald Kennedy, Jack H. Knapp, Robert Melillo, and Alternates Jean Anderson, and Joseph Notaro, Jr. Also present was Planning Director Dennis Elpern.

Absent was Alternate Victoria Hickey.

Mr. Melillo led the Commission in the Pledge of Allegiance.

Mr. Melillo made a motion to table the acceptance of the minutes of July 25, 2006. Mr. Farah seconded the motion.

Chairman Knapp said there are no new or Continuations of Public Hearings scheduled for this evening, so they would go right into the Old Business.

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OLD BUSINESS:

Petition of 46 Mill Plain Rd. LLC, Rear portion of 3-5, 7-9 & 13 Mill Plain Rd. (#E15038, northerly #E15040 & portion of #E15039 for a Change of Zone from RA-40 to CRP Zone. Public hearing closed July 25, 2006 – Decision must be made by September 28, 2006.

Chairman Knapp said eligible to vote on this are Buzaid, DiCaprio, Farah, Haddad, Hoffstaetter, Jowdy, Kennedy, Knapp, and Melillo. Ms. Hickey is also eligible but not present. He asked for a motion to start the discussion. Mr. Farah made a motion to approve this for the following reasons:

- The Planning Commission, on July 5, 2006, voted unanimously to give the petition a positive recommendation. The project must be reviewed by the Planning Commission, according to the Zoning Regulations, Sec. 5.G.6.b., Overall Layout, "the location of such uses shall be so arranged to limit undue detrimental effect upon surrounding properties including, but not limited to the effect of noise and other nuisances abutting residential zoning districts." A campus research park with its stated purpose of being in part "intended for the use of colleges or universities" could render this application in conformance with the Plan of Conservation & Development.

Mr. Melillo seconded the motion. Chairman Knapp asked if anyone had any comments.

Mr. DiCaprio said he had heard on the tape that some of the neighbors had submitted a petition in opposition to this and under the provisions of the CT General Statutes; this could have an impact on the number of votes needed to approve this petition. Chairman Knapp asked Mr. Elpern if the staff had checked this and he said the Commission's secretary had. She said there were eighty-one properties located within 500 ft. of the subject parcel and twenty percent of that would be sixteen signatures. She said although there were two signatures for almost every lot, she counted the lots and there were forty-six signatures which definitely is more than the needed sixteen. Chairman Knapp said this means it will take a "super" majority or a two-thirds majority vote in order for this to be approved.

Chairman Knapp then said the decision they are making is without a doubt the largest decision the Commission will make. The safeguards they put in when they created the CRP zone will give the Planning Commission more than enough control to safeguard the area. This proposal is good for the City of Danbury.

Ms. Hoffstaetter said although she would love to see this in Danbury, she has concerns about both the size of the parcel as well as whether this is the right parcel for this use. She said she hopes the Planning Commission will be able to do enough during their review to make this have minimum impact on the neighbors.

Chairman Knapp called a roll call vote and the motion to approve this petition was passed with six AYES (from Mrs. Buzaid, Mr. Farah, Ms. Hoffstaetter, Mr. Jowdy and Mr. Melillo) and two NAYS (from Mr. DiCaprio and Mr. Kennedy).

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Petition of Bates Place LLC, 15-17 Bates Pl. (portion of #I13275) for a Change of Zone from CG-20 to RH-3. Public hearing closed July 25, 2006 – Decision must be made by September 28, 2006.

Chairman Knapp said eligible to vote on this matter are Buzaid, Farah, Haddad, Hoffstaetter, Jowdy, Kennedy, Knapp, Melillo and Anderson. and Melillo. Ms. Hickey is also eligible but not present. Ms. Hickey is also eligible but not present. Mr. DiCaprio said he too is eligible since he had listened to the tapes of the last meeting. Mrs. Anderson recused herself as she cannot vote on this. Mr. Melillo made a motion to approve this for the following reasons:

- It will promote neighborhood preservation, as recommended in the Plan of Conservation & Development, and will allow development to proceed which will not be in violation of § 8.B.2. of the Regulations.

Mr. Farah seconded the motion. Chairman Knapp called a roll call vote and the motion to approve was passed with seven AYES (from Mr. Farah, Mr. Haddad, Ms. Hoffstaetter, Mr. Kennedy, Mr. Melillo, Mr. DiCaprio and Chairman Knapp) and two NAYS (from Mrs. Buzaid and Mr. Jowdy).

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Petition of Masi Brothers LLC, 26-28 South St. (#K16145) for Change of Zone from IL-40 to RMF-4. Public hearing closed July 25, 2006 – Decision must be made by September 28, 2006.

Chairman Knapp said eligible to vote on this matter are Buzaid, Farah, Haddad, Hoffstaetter, Jowdy, Kennedy, Knapp, Melillo and Anderson. Ms. Hickey is also eligible but not present. Mr. DiCaprio said he too is eligible since he had listened to the tapes of the last meeting. Mr. Melillo made a motion to approve this for the following reasons:

- The density is compatible with the abutting RMF-4 lands, South Street is an arterial street, the site is within the existing sewer and water service areas, wetlands are not present and the site is not within a public water supply watershed.

Mr. Farah seconded the motion. Chairman Knapp called a roll call vote and the motion to approve was passed unanimously.

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ZBA Referral #06-95 – N & M Properties LLC, 104 West St. (#H14183) to change pre-existing non-conforming use (ten-unit Boarding House) to a less intense non-conforming use (six-family dwelling). (CL-10 Zone) ZBA Public hearing scheduled for August 10, 2006.

Chairman Knapp asked Mr. DiCaprio to give the Subcommittee report. Mr. DiCaprio said in addition to the fact that we don't want to encourage non-conforming uses, this change would mean they would need to provide twelve on-site parking spaces and looking at the plot plan, there is no place to put them. Mr. Farah said that continuing a non-conforming use is permitted by the Regulations but we certainly don't want to encourage them to start switching around to other non-conforming uses. Mr. Melillo said changing from one non-conforming use to another non-conforming use is not really good policy and we certainly don't want to encourage it. Mr. Haddad said he strongly agreed with Mr. DiCaprio and asked who had determined that a six-unit dwelling is less intensive than a ten-room boarding house. Mr. Elpern said that is what is written in the description of work proposed on the variance application. He added that he does not think a ten unit Boarding house is a less intense use than a six-family dwelling. Mr. DiCaprio then made a motion to give this a negative recommendation for the following reasons:

- Changing from one non-conforming use to another non-conforming use is not really good policy. The right to continue a non-conforming use is protected but with the intent that it will be brought into conformity rather than just changed to another non-conforming use.

Mr. Melillo seconded the motion and the motion was passed unanimously by voice vote.

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There was nothing under New Business and under Correspondence there were three Cease & Desist Orders listed. The For Reference Only listed the public hearings scheduled for August 22, 2006 and September 12, 2006.

Chairman Knapp asked if there was anything to discuss under Other Matters and Mr. Haddad said he wanted to state on the record that the Chairman did not call on him during the roll call vote on the Campus Research Park petition, so he did not vote on that matter.

At 9:00 PM, Mr. Haddad made a motion to adjourn. Mr. Jowdy seconded the motion and it was passed unanimously.